

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF	)	
COMCAST CABLEVISION OF EASTERN	)	
SHORE, INC., FOR A CHANGE IN ITS	)	
BASIC SERVICE RATES AND NECESSARY	)	PSC DOCKET NO. 04-82
EQUIPMENT AND INSTALLATION CHARGES	)	
IN THE UNINCORPORATED AREAS OF	)	
SOUTHEAST SUSSEX COUNTY SERVED BY	)	
THE OCEAN CITY, MARYLAND HEAD-END	)	
(FILED MARCH 2, 2004)	)	

**ORDER NO. 6416**

**AND NOW**, to-wit, this 18th day of May, A.D. 2004;

**WHEREAS** the Commission having, on May 18, 2004, conducted a public evidentiary hearing on the application filed by Comcast Cablevision of Eastern Shore, Inc. ("Comcast"), seeking approval to make changes in the maximum permitted rates for basic cable television service and equipment and installation charges governing service provided by Comcast in the unincorporated areas of southeast Sussex County served by the Ocean City, Maryland head-end and designated as Community Identifier Unit CIU DE0023; and

**WHEREAS**, based on the evidence so presented, the Commission having determined that Comcast's proposed rate adjustments as they appear on its FCC Forms 1240 and 1205, have been calculated in accordance with the Rules and Regulations of the Federal Communications Commission and, hence, should be approved for service after June 1, 2004; now, therefore,

**IT IS ORDERED:**

1. That the Commission hereby approves the maximum permitted rates for basic cable service and equipment and installation as set forth below for service offered by Comcast Cablevision of Eastern Shore, Inc.,

in the unincorporated areas of Sussex County served by the Ocean City, Maryland head-end and designated as Community Identifier Unit CIU DE0023, with such maximum permitted rates to be effective for service after June 1, 2004.

**Basic Service Tier Rates**

COMCAST SYSTEM	CURRENTLY EFFECTIVE MONTHLY MAXIMUM PERMITTED RATE	COMPANY SELECTED RATE TO BE EFFECTIVE 6/1/04	FCC FORM 1240 MAXIMUM PERMITTED RATE EFFECTIVE 6/1/04
DE0023	\$15.49	\$15.45	\$16.75

**Maximum Permitted Rates for Equipment and Installation Per FCC Forms 1205**

<u>Equipment and Installation</u>	<u>FCC Form 1205 Maximum. Permitted Rate (Effective 6/1/04)</u>	<u>Actual Company Selected Rate</u>
Addressable converter	\$ 4.83	\$ 2.81
Non-addressable converter	1.30	.36
Remote control	0.33	.33
HDTV Converter	8.33	5.00
Hourly service charge (HS)	35.17	35.17
Relocate Outlet Initial	23.60	23.60
Unwired home installation	52.23	43.08
Prewired home installation	31.40	28.72
Additional outlet connection at time of initial installation	17.15	14.36
Additional outlet connection, separate trip	25.31	25.13
Upgrade/Downgrade Service	1.99	1.99

2. That the Commission will enter formal findings and an opinion at a later date.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joshua M. Twilley  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF       )  
COMCAST CABLEVISION OF EASTERN SHORE,    )  
INC., FOR A CHANGE IN ITS BASIC           )  
CABLE RATES AND NECESSARY REGULATED     )  
EQUIPMENT AND INSTALLATION CHARGES IN    )  
THE UNINCORPORATED AREAS OF SOUTH-       )  
EASTERN SUSSEX COUNTY SERVED BY THE       )  
OCEAN CITY, MARYLAND HEAD-END            )  
(FILED MARCH 2, 2004)                        )

PSC DOCKET NO. 04-82

**FINDINGS AND OPINION TO ACCOMPANY PSC ORDER NO. 6416**

**APPEARANCES:**

On behalf of the Applicant, Comcast Cablevision of  
Eastern Shore, Inc.:

RICHARDS, LAYTON & FINGER  
BY: GLENN C. KENTON, ESQUIRE

On behalf of the Delaware Public Service Commission:

GARY A. MYERS, DEPUTY ATTORNEY GENERAL, RATE COUNSEL

**I. BACKGROUND**

1. Comcast Cablevision of Eastern Shore, Inc. ("Comcast"), holds a franchise granted by this Commission to operate a cable television system in the unincorporated areas of southeastern Sussex County. The Commission regulates the maximum permitted rates that Comcast may charge its subscribers for its basic service tier ("BST") offering, as well as related equipment and installation charges. In doing so, the Commission applies the rate regulation rules and methodologies adopted by the Federal Communications Commission ("FCC"). See 47 U.S.C. § 543(a)(2)(A), (b); 26 Del. C. § 605(6).

2. On March 2, 2004, Comcast filed an FCC Form 1240 seeking to gain Commission approval to adjust its maximum permitted BST rate for the

then upcoming June 2004 to May 2005 projected period. See 47 C.F.R. § 76.922(e) (annual rate adjustment method). With that Form 1240, Comcast also submitted another form, FCC Form 1205, to make changes to the maximum permitted rates for its equipment and installation charges during the same period. See 47 C.F.R. § 76.923.

3. At the direction of Staff, Comcast published notices of these proposed adjustments to its regulated cable rates. The notices (Exhs. 1A & 1B) solicited comments and announced that the Commission would hold a hearing on the proposed rate adjustments at its regular meeting on May 18, 2004. No one submitted comments and no member of the public appeared at the later hearing. After considering the evidence presented by Staff and Comcast at that May 18<sup>th</sup> hearing, the Commission approved the proposed adjustments to Comcast's maximum permitted rates for regulated BST service and regulated equipment and installation charges. PSC Order No. 6416 (May 18, 2004). These are the findings in support of that earlier Order. They are based on a record of five exhibits and 12 pages of transcribed proceedings.

## **II. SUMMARY OF EVIDENCE:**

4. As noted, Comcast filed its FCC Form 1240 in order to obtain the Commission's approval for a proposed increase in its maximum permitted rate for its BST offering. Under Comcast's calculations, that maximum permitted rate for BST would move, due to inflation, changed programming costs, and "true-up" calculations, from the previously approved maximum of \$15.49 to a new - higher - maximum of \$16.75 for the upcoming projected period. Exh. 2A. With its BST rate form, Comcast also filed its FCC Form 1205 to justify changes (based on its prior year's actual costs) to its maximum permitted rates for regulated

equipment and installation services. Exh. 2B. However, as summarized by Staff, the operator-selected rates (those chosen by Comcast) for equipment and installation services would not - except in two instances - change from the charges in place over the last year. Exh. 3 at Att. 1. In the two exceptions - hourly service charges and remote control - the operator-selected rate would decrease by \$0.73 and \$0.01 respectively. Id.

5. In his pre-filed testimony (Exh. 3), William C. Schaffer, the assigned Staff Analyst, testified that Staff had verified the financial data and calculations used by Comcast in its FCC Forms 1240 and 1205. Exh. 3 at 1-3. He reported (in both his pre-filed and later in his oral testimony) that, in Staff's view, Comcast's proposed maximum permitted BST rate and its proposed maximum permitted equipment and installation charges had been appropriately calculated utilizing the FCC's annual rate adjustment method. Exh. 3 at 5. Accordingly, Mr. Schaffer recommended that the Commission approve the proposed changes to those maximum permitted rates. Exh. 3 at 5-6. While recommending approval of the equipment and installation service charges, Mr. Schaffer did note that the maximum permitted rates for installation services had changed significantly since Comcast's 2003 filing. He reported that Comcast, through Craig Schmid, its Director of Regulatory Affairs, had agreed to undertake a formal study of the times involved in the various installation services prior to Comcast's next FCC Form 1205 filing. Exh. 3 at 4-5. According to Mr. Schaffer, while the internal survey used for the 2004 filing might have been appropriate considering time constraints, the resulting increase in installation charges presented an appropriate opportunity (prior to the next rate filing) to study the times involved

in order to validate the time allocation factors which drive the rate calculations. Exh. 3 at 4-5, 6.

6. At the hearing, Comcast presented the oral testimony of Henry Pearl, a Comcast vice-president and the general manager for the Delmarva systems operated by Comcast's corporate parents. He indicated that, in his view, Comcast had calculated the proposed rate adjustments in its Forms 1240 and 1205 in a complete and accurate manner utilizing the FCC's forms and corresponding rules. Tr. 7. Given that, Mr. Pearl obviously saw no reason to disagree with Mr. Schaffer's recommendation that the adjustments be approved. Tr. 8.

7. Mr. Schaffer also testified at the hearing, summarizing Staff's investigation and its recommendation to approve the rate adjustments. Tr. 9-10. In addition, Mr. Schaffer expounded on Staff's request that Comcast perform a time labor survey to be completed before the next equipment and installation service filing. According to Mr. Schaffer, for the 2004 Form 1205 filing, Comcast based its labor charges for installation services on a survey done by sampling a number of their operating systems in 2003. Some of these "sampled" systems involved systems recently acquired by Comcast's corporate parent AT&T's cable operations. The labor hours derived from these surveys, when utilized in the FCC Form 1205 calculations, resulted in maximum equipment and installation charges for this Comcast system being significantly different than those accepted in 2003. Tr. 10. Mr. Schaffer repeated that while Staff was willing to accept Comcast's survey data for this FCC Form 1205 filing, Comcast had agreed to perform a formal study of the labor hour allocations for installation services prior to Comcast's next rate filing. Tr. 10-11.

### **III. DISCUSSION AND CONCLUSIONS**

8. This Commission has jurisdiction over this matter. Section 605(6) of Title 26 of the Delaware Code grants this Commission the authority to implement any federal regulations or legislation governing the provision of cable television service. Since 1993, the PSC has acted as the local franchising authority for this franchise (CUID DE0023) and, hence, has regulated (under the rules adopted by the FCC) the maximum rates the cable operator may charge for BST, related equipment, and related installation services. Over the last several years, Comcast has used the FCC's annual rate adjustment method to adjust this franchise's BST rates. 47 C.F.R. § 76.922(e). Under this methodology, the maximum permitted BST rate can be adjusted annually (subject to "true-up" changes) to reflect inflation, projected changes in external costs (including programming costs), and projected changes in channels. 47 C.F.R. § 76.922(e)(1). The maximum permitted charges for equipment and installation services are also adjusted on a similar annual basis to reflect changes in actual costs incurred in the preceding fiscal year. 47 C.F.R. § 76.923(a)(2).<sup>1</sup>

9. As noted above, in this matter, Comcast has filed FCC Forms 1205 and 1240 to reflect adjustments to the maximum permitted rates for its BST service, related equipment, and installation services for its southeastern Sussex County franchise area. Based on the evidence presented, the Commission finds that the submitted Form 1240 reflects permissible adjustments to Comcast's maximum permitted rate for its BST service. Accordingly, the Commission approves the maximum permitted rate

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<sup>2</sup>In setting rates for equipment and installation, a cable operator may aggregate its equipment costs on a franchise, system, regional, or company level. See 47 C.F.R. § 76.923(c)(1), (3).



(\$16.75) set forth in the FCC Form 1240 applicable to this franchise area.

10. Furthermore, based on the evidence presented, the Commission finds that the maximum permitted equipment and installation rates set forth in the FCC Form 1205 submitted by Comcast have been appropriately calculated. Accordingly, the Commission approves the maximum permitted rates set forth in the FCC Form 1205.

11. Finally, the Commission accepts Comcast's offer, solicited by Staff, to undertake a formal survey of the labor times utilized in calculating the charges for various installation services. See Exh. 3 at 4-5; Tr. 9-11. Comcast should complete such formal survey in sufficient time to allow those labor times to be utilized in its FCC Form 1205 filing for the year 2005.

**NOW, THEREFORE,** IT IS directed this 19<sup>th</sup> day of October, 2004, that these Findings and Opinion shall be filed with PSC Order No. 6416 (May 18, 2004).

BY THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joshua M. Twilley  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

Findings and Opinion to Accompany  
PSC Order No. 6416 Cont'd.

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Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary